



**Before The
State Of Wisconsin
DIVISION OF HEARINGS AND APPEALS**

In the Matter of the Wisconsin Pollutant Discharge
Elimination System Permit Modification WI-
0064815-01-1 Issued to Richfield Dairy, LLC to be
Located in the Town of Richfield, Adams County,
Wisconsin

Case No. DNR-15-069

NOTICE OF PREHEARING CONFERENCE

On October 27, 2015, the Department of Natural Resources (DNR) issued a modified WPDES permit to Richfield Dairy (Modified Permit). The modified WPDES permit implemented an order by Administrative Law Judge Jeffrey Boldt (ALJ Boldt) of the Division of Hearings and Appeals issued on September 3, 2014. (Case Nos. IH-12-04 and IH-12-08). ALJ Boldt issued another order that same date dealing with Richfield Dairy's high capacity well approval. (Case Nos. IH-12-03, IH-12-05, DNR-13-021 and DNR-13-027).

On December 22, 2015, a verified petition for contested case hearing was submitted to the DNR, pursuant to Wis. Stat. §§ 227.42 and 283.63. The petition identified the following factual disputes for hearing:

- a. Whether the WPDES Permit as issued complies with the ALJ's order and directive that DNR include a condition "to establish a cap on the number of animal units which can sustainably be accommodated at the site in conjunction with the high capacity well condition approval modification."
- b. Whether the 6,270 animal units authorized by the WPDES permit can be maintained on the 52.5 million gallons per year of water authorized by the well approval.
- c. Whether the authorization to house 6,270 animal units will adversely affect Pleasant Lake and associated resources.

On March 18, 2016, the DNR partially granted Petitioners' request for review pursuant to Wis. Stat. § 283.63 of the modification of the WPDES permit issued to Richfield Dairy. In so doing, the DNR granted only a limited review to be based on the existing agency record and limited the issues for hearing to a legal issue concerning whether the Department reasonably acted within its authority in implementing ALJ Boldt's WPDES Order. The specific issue that the DNR granted for review is as follows:

Whether the Animal Unit Limit in the Modified Permit complies with the ALJ Order and Department's authority under state law.

On July 18, 2016, the Division of Hearings and Appeals received a Request for Hearing from the Department of Natural Resources.

NOTICE IS HEREBY GIVEN that the State of Wisconsin Division of Hearings and Appeals will hold an *in-person* prehearing conference on the above matter, pursuant to Wis. Stat. §§ 227.42 and 283.63, **at 9:00 AM on October 5, 2016**, at the offices of the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, Wisconsin. Any person, organization or governmental unit wishing to become a party to this proceeding must appear at the conference in person or by an authorized representative. If necessary, the purpose of the prehearing conference will be to identify parties to the proceeding, to simplify the issues which may be contested at the hearing, establish a discovery schedule and set a date for hearing. No testimony will be heard at the prehearing conference; instead, a date may be set for the hearing on the merits at the conference.

When the ultimate contested case hearing is held it will be a Class 1 contested case pursuant to Wis. Stat. § 227.01(3)(a) and the fair play provisions of Wis. Stat. ch. 227 will apply. The procedures relating to contested cases set forth in Wis. Admin. Code ch. NR. 2 will be followed. The procedure that will be followed at the public hearing will closely resemble that normally followed at a court hearing. All parties are advised that they have the right to seek the aid and assistance of legal counsel and to be represented by legal counsel at the public hearing.

The permits, petitions and other information relating to the petitioner are on file and may be inspected and copied at the offices of the Department of Natural Resources, 101 South Webster Street, Madison, Wisconsin, between the hours of 9:00 a.m. and 3:30 p.m., Monday through Friday, holidays excepted. Copies of documents on file for the applicant may be obtained by writing to the Department of Natural Resources, WPDES Permit Section, P.O. Box 7921, Madison, Wisconsin, 53707-7921. Reasonable costs will be charged for copies of all information excluding public notices and fact sheets.

Pursuant to the Americans With Disabilities Act, reasonable accommodations will be made to any qualified individual upon request. Please call the Division of Hearings and Appeals at (608) 266-3865 with specific information on your request prior to the date of the scheduled prehearing or hearing.

Dated at Milwaukee, Wisconsin, on August 18, 2016.

STATE OF WISCONSIN
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By:


ERIC D. DEFORT
ADMINISTRATIVE LAW JUDGE